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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF DELAWARE

3 - - - - -
4 ETHYPHARM S.A. FRANCE and :
5 ETHYPHARM S.A. SPAIN, :
6 Plaintiffs, :
7 VS. : CASE NO.
8 BENTLEY PHARMACEUTICALS, : 04-13000-SLR
9 INC., :
10 Defendant. :
11 - - - - -
12

13 DEPOSITION OF MICHAEL D. PRICE, a witness
14 called by and on behalf of the Plaintiffs, taken
15 pursuant to the applicable provisions of the
16 Federal Rules of Civil Procedure, before
17 Sandra L. Bray, Registered Diplomate Reporter,
18 CSR Number 103593, and Notary Public in and for
19 Commonwealth of Massachusetts, at the offices of
20 Edwards Angell Palmer & Dodge LLP,
21 111 Huntington Avenue, Boston, Massachusetts, on
22 Tuesday, July 25, 2006, commencing at 9:13 a.m.
23
24

Page 2

1 APPEARANCES:

2 Representing the Plaintiffs:

3 BAACH ROBINSON & LEWIS PLLC

4 1201 F Street, NW

5 Suite 500

6 Washington, D.C. 20004

7 BY: JONATHAN D. FINE, ESQUIRE

8 DWIGHT P. BOSTWICK, ESQUIRE

9
10 Representing the Defendant:

11 EDWARDS ANGELL PALMER & DODGE LLP

12 111 Huntington Avenue

13 Boston, Massachusetts 02199

14 BY: JOSEPH P. MINGOLLA, ESQUIRE

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1 EXHIBITS, Continued

2 NO. DESCRIPTION PAGE NO.

3 13 Copy of E-mail to Mr. Murphy
from Mr. Fitzgibbons, dated 1714 14 Copy of E-mail to Mr. Bolling,
et al. from Mr. Fitzgibbons,
dated 11-17-01 1795 15 Spanish Document and
Translation 1876 16 Spanish Document, Bates
Numbers BEL051001-051009 2027 17 Spanish Document, Bates
Numbers BEL051010-051015 2038 18 Spanish Document from;
Ms. Villalobos, dated 12-30-03 2059 19 Spanish Document D1-A, Bates
Numbers BEL051020-051023 20510 20 Invoice from Laboratorios
Belmac S.A. 206

11 21 Invoices from Pharma de Espana 210

12 22 Copy of E-mail, dated 12-12-01 224

13 23 Contrato de Transferencia de
Tecnología y Cesión de Know
How, and Translation 22714 24 Bentley Pharmaceuticals
Board of Directors August 14-15,
2003 Meeting Minutes 236

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1 INDEX

2 WITNESS: PAGE NO.

3 MICHAEL D. PRICE

4 BY MR. FINE 7, 249

5 BY MR. MINGOLLA 242

6 EXHIBITS

7 NO. DESCRIPTION PAGE NO.

8 1 2001 10-K 23

9 2 Document Bates Numbers
BEL 006982-006987 3310 3 Bentley Pharmaceuticals Inc.
List of Subsidiaries 47

11 4 1999 10-K 67

12 5 2000 10-K 73

13 6 2002 10-K 99

14 7 Fax to Mr. De Basilio from
Mr. Murphy, dated 1-19-95 106

15 8 Press Release, dated 10-10-00 111

16 9 Press Release, dated 11-14-01 121

17 10 Presentation to Perrigo 125

18 11 Letter to Mr. De Basilio from
Mr. Herrera, dated 11-14-01 16119 12 Letter to Mr. De Basilio from
Mr. Herrera, dated 11-14-01 161

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1 PROCEEDINGS

2 (The Florida driver's license number as
3 identification of the deponent was noted
4 for the record.)5 MICHAEL D. PRICE, having duly sworn or
6 affirmed that his testimony would be the truth,
7 the whole truth, and nothing but the truth,
8 testified as follows:

9 * * *

10 MR. FINE: Okay. Thank you. Before
11 we begin, I'd like to put a brief statement on
12 the record. Actually, could we go off the
13 record for a second?

14 (Discussion off the record)

15 MR. FINE: As I just discussed with
16 Mr. Mingolla, I'd like to put a brief statement
17 on the record, that Ethypharm months ago
18 requested some documents relating to
19 intercompany transactions, including documents
20 relating to the forgiveness of approximately 6.7
21 million euros -- that's \$8 million about -- in
22 credits extended to Laboratorios Belmac by
23 Bentley Pharmaceuticals during time periods
24 relevant to this litigation. In order to depose

2 (Pages 2 to 5)

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1 Bentley's executives and officers, including
 2 Mr. Price, Bentley first agreed to produce
 3 documents on this subject last Thursday evening,
 4 and Ethypharm received a few documents
 5 purporting to relate to the loan forgiveness
 6 issue yesterday. They're in Spanish, and we
 7 haven't had the opportunity to understand them
 8 adequately. Ethypharm has agreed to go ahead
 9 with this deposition and ask questions in this
 10 area, but to the extent that our ability to
 11 explore the area has been compromised, Ethypharm
 12 reserves all its rights, including the right to
 13 recall Mr. Price or Mr. Murphy or others for
 14 further questioning on this subject.

15 MR. MINGOLLA: And if I may at this
 16 point just interject and note that I will
 17 refrain from commenting completely on the
 18 substance of Mr. Fine's representation. We, of
 19 course, will disagree that the documents were
 20 requested months ago, that we responded actually
 21 before the deadline set forth in the rules, and
 22 we will address that issue, if need be, in due
 23 course outside of the deposition.

24 * * *

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1 EXAMINATION BY MR. FINE:

2 Q. Okay. Mr. Price, thank you for coming here
 3 today. I really appreciate it. And I'd like to
 4 go over a couple of sort of basics about a
 5 deposition before we really start. Have you
 6 ever been deposed before?

7 A. I have.

8 Q. You have. How many times?

9 A. I would guess a half a dozen.

10 Q. Okay. Basically -- were those in U.S. matters?

11 A. They were U.S. matters.

12 Q. The basic format of a deposition is that I'll
 13 ask you questions and you answer them under
 14 oath. Do you understand that?

15 A. I do.

16 Q. Okay. And for the benefit of our court
 17 reporter, you have to answer my questions orally
 18 because she can't take down a nod of the head or
 19 uh-huh or huh-uh. That's sometimes unclear. So
 20 if you could give a clear answer --

21 A. Okay.

22 Q. -- verbally rather than nodding your head, that
 23 would be terrific. And if you need a break at
 24 any time today, just let me know, and we'll see

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1 what we can do about taking a break. The
 2 purpose of this isn't to torture. And the only
 3 caveat on that is that we won't take a break
 4 between a question and your answer, but we can
 5 take a break after those.

6 And I'd ask you -- by agreement of the
 7 parties, we've agreed for these depositions not
 8 to discuss or if the witness, which is you in
 9 this instance, would not discuss the substance
 10 of your testimony with lawyers during the
 11 deposition during a break, that would be good.

12 A. Okay.

13 Q. You're now employed by Bentley Pharmaceuticals,
 14 Incorporated; is that correct?

15 A. That's correct.

16 Q. What is your present position or positions with
 17 them?

18 A. I am vice president, chief financial officer,
 19 secretary, and treasurer.

20 Q. Do you have any other positions with Bentley?

21 A. Not with Bentley Pharmaceuticals, no.

22 Q. Do you serve on Bentley's board of directors?

23 A. I do not.

24 Q. You do not. Have your positions with Bentley

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1 changed since you were first employed there?

2 A. They have.

3 Q. When were you first employed?

4 A. In March of 1992.

5 Q. And what positions did you hold in 1992?

6 A. I was hired in March of 1992 as the director of
 7 SEC reporting.

8 Q. I'm sorry. Was that SEC?

9 A. As in Securities and Exchange Commission
 10 reporting.

11 Q. And who hired you?

12 A. I was hired by Mark Ayers, who was the CFO at
 13 the time.

14 Q. And what was your salary at that time?

15 A. I think my beginning salary was \$60,000 per
 16 year.

17 Q. Did you receive a bonus that year that you
 18 recall?

19 A. I think I got a modest bonus of \$500 or
 20 something like that.

21 Q. Did you receive any other compensation that
 22 year?

23 A. I received stock options upon my hiring.

24 Q. Approximately how many?

3 (Pages 6 to 9)

Page 10

1 A. 10,000, I think.
 2 Q. Okay. And was there any other compensation that
 3 year?
 4 A. Not that I recall.
 5 Q. And were you only the director of SEC reporting
 6 at that time or did you also hold any other
 7 positions?
 8 A. Later that year, I also became the director of
 9 investor relations.
 10 Q. In 1995 -- 1992?
 11 A. That's right.
 12 Q. Director of investor relations. Is that
 13 correct?
 14 A. That's right.
 15 Q. And did that position come with any change in
 16 salary or compensation?
 17 A. Not that I recall.
 18 Q. And in 1993, what positions did you hold?
 19 A. In 1993, I think I became vice president of
 20 finance.
 21 Q. And your compensation in that year?
 22 A. I don't recall.
 23 Q. Was it approximately the same as it had been the
 24 year before?

Page 11

1 A. It was probably something higher but probably
 2 not materially higher.
 3 Q. Okay. And as VP of finance, did you also have
 4 responsibility for SEC reporting?
 5 A. I did.
 6 Q. And did you also have responsibility for
 7 investor relations?
 8 A. I did.
 9 Q. Okay. And what other responsibilities did you
 10 have at that time?
 11 A. I think I became corporate secretary during
 12 1993.
 13 Q. And as corporate secretary, what do you do?
 14 A. I essentially record the minutes of the meetings
 15 of the board of directors and to safeguard the
 16 corporate documents.
 17 Q. And as director of SEC reporting, what do you
 18 do -- what did you do?
 19 A. Make sure that all of the company's required
 20 filings with the Securities and Exchange
 21 Commission are made on a timely basis and are
 22 accurate and complete.
 23 Q. And do you draft those filings yourself?
 24 A. I'm certainly involved in the drafting of those

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1 documents.
 2 Q. Who else drafts them with you?
 3 MR. MINGOLLA: Are we talking present
 4 day, back in 1993?
 5 MR. FINE: In 1993.
 6 A. The company's attorneys, who at the time were
 7 Parker Chapin Flautau & Klimpl, would have been
 8 involved in that process.
 9 Q. Was anybody else at Bentley involved in that
 10 process? Actually, I should qualify something.
 11 Actually, at that time, I believe the company
 12 was called Belmac Corporation?
 13 A. It was, that's correct.
 14 Q. Was anyone else at Belmac Corporation involved
 15 in that process?
 16 A. Well, the documents were, once drafted, shared
 17 with officers and directors for comments and
 18 revisions and input. I would say the primary
 19 responsibility for drafting was me.
 20 Q. Okay. And when you say officers and directors,
 21 do you recall which officers and directors at
 22 the time?
 23 A. I could go back and speculate on names at that
 24 point, but whoever the existing officers and

Page 13

1 directors were at the time, they were shared
 2 with.
 3 Q. Were there any officers and directors who you
 4 recall didn't review those?
 5 A. They were certainly all given an opportunity to
 6 do that.
 7 Q. And as director of investor relations, what were
 8 your responsibilities?
 9 A. To establish and maintain contact with the
 10 institutional investors as well as retail
 11 investors in the company's stock, to take phone
 12 calls from them and answer questions that they
 13 had.
 14 Q. Did you have any responsibility for press
 15 statements or press releases?
 16 A. I was involved with drafting press releases or
 17 making sure that the press releases were
 18 distributed.
 19 Q. Was anyone else at Belmac Corporation U.S.A.
 20 also involved in drafting or revising press
 21 statements or press releases?
 22 A. During that time frame?
 23 Q. Yes.
 24 A. Until I took control of the investor relations

4 (Pages 10 to 13)

Page 14

Page 16

1 function, that was done by a person by the name
2 of Russ Ketchum.
3 Q. So before you became director of investor
4 relations in 1992?
5 A. Right, which I think was August of '92.
6 Q. And did Mr. Ketchum or Ms. Ketchum stay on at
7 Belmac Corporation?
8 A. No, he left in that time frame.
9 Q. Did you have any other responsibilities in the
10 1992, 1993 time frame?
11 A. Not that I recall.
12 Q. Did your positions or responsibilities change in
13 1994?
14 A. At some point, I became chief financial officer,
15 but I couldn't tell you if that was in 1994 or
16 perhaps even in 1995.
17 Q. And what were your responsibilities as chief
18 financial officer?
19 A. To make sure that the financial records of the
20 company were complete and accurate, to also make
21 sure that all of the filings that were required
22 by either the stock exchange or the Securities
23 and Exchange Commission were made on a timely
24 basis and were complete and accurate.

1 1994 or 1995.
2 Q. Did you receive any options in 1994 or 1995?
3 A. I did.
4 Q. Approximately how many?
5 A. I would have to go back and look at the records.
6 I don't recall.
7 Q. Do you recall it being more than the 10,000 that
8 you received when you were hired on?
9 A. It was. It was more.
10 Q. Was it --
11 A. At one point, I received 90,000, but I couldn't
12 tell you what year that was. That may have been
13 '93.
14 Q. Okay. And did your responsibilities or
15 position -- well, let me backtrack for a second.
16 As CFO, to whom did you report at Belmac
17 Corporation?
18 A. I reported to the chairman, president, and CEO.
19 Q. Who was that at that time?
20 A. In what year?
21 Q. 1994 or 1995, when you became CFO.
22 A. In early -- for the first three-quarters of the
23 year in '94, that would have been Donald
24 Boulton, and for the last quarter of 1994 and

Page 15

Page 17

1 Q. And did your responsibilities as CFO include any
2 other responsibilities that you haven't
3 discussed under your responsibilities as VP of
4 finance or as vice president of finance?
5 A. I think they were essentially the same, but I
6 think I probably had more of a responsibility
7 for dealing with the investors, the large
8 investors in the company stock.
9 Q. What was your compensation when you were made
10 CFO in 1994 or 1995?
11 A. I think by that time it had probably increased
12 to somewhere around 100,000 or more.
13 Q. And is that salary?
14 A. Base salary.
15 Q. And did you receive any bonuses in 1994 or 1995?
16 A. I would have to go back and look at our SEC
17 filings to determine that.
18 Q. As you recall, do you recall receiving a bonus
19 at that time?
20 A. If I did, it was a modest bonus.
21 Q. Do you recall receiving any stock at that time
22 or in 1994 or 1995?
23 A. I think I was awarded 1,000 shares of stock in
24 1993, but I don't think I received any stock in

1 from that point forward, it would have been Jim
2 Murphy.
3 Q. Okay. And in 1996 -- well, let me backtrack one
4 more time. Who reported to you at that time in
5 1994 or 1995? Or why don't we go through --
6 instead of names, why don't we go through which
7 departments or divisions?
8 A. Okay. It was essentially investor relations.
9 It was the accounting and finance department.
10 Q. Anyone else?
11 A. That was it.
12 Q. Okay. And approximately how many people are in
13 the -- were in the investment relations
14 department at that time?
15 A. There was just one.
16 Q. And who was that?
17 A. In that time frame, it was either Jill Figueroa
18 or I can't remember his first name but his last
19 name was Scime, spelled S C I M E.
20 Q. And in the accounting and finance department?
21 A. That would have been Elaine Melia, M E L I A;
22 Karen Garda, G A R D A; Michelle Bain, B A I N;
23 Shannon Gullledge, G U L L E D G E.
24 Q. Anyone else?

5 (Pages 14 to 17)

Page 18

Page 20

1 A. Those are the only names that come to mind.
 2 Q. In 1996, did your responsibilities or positions
 3 change at all?
 4 A. I think by 1996, I think I had been made a
 5 member of the board of directors, and I think
 6 that happened in 1995, if I recall correctly,
 7 but other than becoming a board member, my
 8 duties and responsibilities did not change.
 9 Q. And your compensation in 1996, do you recall
 10 approximately how much you received in terms of
 11 a salary?
 12 A. I don't recall exactly, but I would guess that
 13 it was somewhere around 100,000 or maybe a
 14 little more.
 15 Q. And do you recall receiving a bonus in 1996?
 16 A. If I did, it was a relatively modest bonus.
 17 Q. Do you recall receiving any stock or options in
 18 1996?
 19 A. I received 400,000 stock options in 1996.
 20 Q. And did you receive any other compensation in
 21 1996?
 22 A. I don't recall receiving anything significantly
 23 other than that.
 24 Q. And when you say "significantly" --

1 Q. I'm just trying to get a better sense of going
 2 through a couple things whether that triggers a
 3 memory at all. 10,000?
 4 MR. MINGOLLA: Objection, asked and
 5 answered.
 6 A. You know, I really don't know. If I had the
 7 proxy statements here in front of me, I'd be
 8 happy to run through them, but I don't recall.
 9 It's almost ten years ago. I really don't
 10 remember.
 11 Q. In 1998, did your responsibilities change?
 12 A. No.
 13 Q. Do you recall approximately the compensation you
 14 received in 1998?
 15 A. I don't. I know that it increased each year,
 16 but I couldn't tell you how much it increased
 17 each year.
 18 Q. Do you recall receiving a bonus in 1998?
 19 A. I can't recall receiving it, but it's possible
 20 that I did.
 21 Q. Did you receive any stock or stock options in
 22 1998?
 23 A. I did not.
 24 Q. Did you receive any other compensation in 1998?

Page 19

Page 21

1 A. If there were, perhaps health insurance benefits
 2 or 401(k) contributions or things of that
 3 nature, all of which are spelled out in our
 4 proxy statement.
 5 Q. Okay. And in 1997, did your position or
 6 responsibilities change at all?
 7 A. No.
 8 Q. And do you recall how much of a salary you
 9 received in 1997?
 10 A. I don't.
 11 Q. Was it more or less than the approximately
 12 100,000 --
 13 A. It was more.
 14 Q. -- you recall for 1996?
 15 A. It increased each year.
 16 Q. Do you recall approximately how much it
 17 increased by?
 18 A. I don't.
 19 Q. Was it 50,000 or 25,000?
 20 MR. MINGOLLA: Objection.
 21 A. I really don't know.
 22 MR. FINE: Counsel, if you could state
 23 the basis for your objection.
 24 MR. MINGOLLA: Asked and answered.

1 A. In 1998, I would have gotten a base salary,
 2 perhaps a bonus, 401(k) contributions, health
 3 insurance reimbursement, possibly some life
 4 insurance. That's all I recall.
 5 Q. And in 1999, did your positions or
 6 responsibilities change at all at Bentley
 7 Pharmaceuticals?
 8 A. No, there was no change in my corporate
 9 responsibilities.
 10 Q. So in 1999, you were CFO with responsibilities
 11 for investor relations, corporate secretary, and
 12 in charge of SEC reporting?
 13 A. And the finance department.
 14 Q. And the finance department. And do you recall
 15 approximately your compensation in 1999?
 16 A. I don't.
 17 Q. Okay. Did you receive any bonus or do you
 18 recall receiving any bonus in 1999?
 19 A. I received a -- I received 5,000 shares of stock
 20 that year as -- essentially as an attempt to
 21 equate my cost of living increase in New England
 22 compared to what it was in Florida, but I
 23 received no stock options.
 24 Q. Do you recall approximately all-in how much you

6 (Pages 18 to 21)

Page 22

Page 24

1 might have been compensated in 1999?
 2 A. I don't recall, but again, if I had the proxy
 3 statement, I'd be happy to run through the
 4 numbers with you.
 5 Q. In 2000, did your responsibilities change at all
 6 from what they had been in 1999?
 7 A. No, they were the same.
 8 Q. Did your positions change at all in 2000?
 9 A. No, still the same.
 10 Q. Do you recall approximately how much you
 11 received in salary in 2000?
 12 A. I don't.
 13 Q. Do you recall receiving a bonus in 2000?
 14 A. I can't specifically recall receiving a bonus in
 15 2000.
 16 Q. Did you receive any stock or stock options in
 17 2000?
 18 A. I received stock options in 2000, and I think
 19 the number was 15,000.
 20 Q. Did you receive any other compensation in 2000?
 21 A. 401(k) contribution, life insurance, and health
 22 insurance benefits.
 23 Q. I'd like to show you a document.
 24 MR. FINE: I'd like to have it marked

1 Q. Yes, absolutely.
 2 A. Okay.
 3 Q. In 2001, did your positions change at Bentley
 4 Pharmaceuticals?
 5 A. No.
 6 Q. Did your responsibilities change?
 7 A. No.
 8 Q. Do you recall what you received in terms of
 9 compensation in 2001?
 10 A. Not specifically, no.
 11 Q. Do you recall receiving a salary in 2001?
 12 A. I do.
 13 Q. Do you recall approximately how much that salary
 14 was?
 15 A. I'm going to guess that it was perhaps 185,000.
 16 Q. Do you recall receiving a bonus in that year?
 17 A. It's possible I received a bonus, but I couldn't
 18 tell you how much it was.
 19 Q. Do you recall receiving any stock or options in
 20 that year?
 21 A. I received stock options, but I couldn't tell
 22 you how many, and I don't think I received
 23 shares of stock other than contributions to the
 24 401(k) plan.

Page 23

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1 as Exhibit 1.
 2 (2001 10-K was marked Exhibit Number 1
 3 for identification.)
 4 Q. Do you recognize this document?
 5 A. I do.
 6 Q. What is this document?
 7 A. This is the company's annual report on Form 10-K
 8 filed with the Securities and Exchange
 9 Commission, and it's for the year ended
 10 December 31st, 2001.
 11 Q. Were you involved in drafting this report?
 12 A. I was.
 13 Q. Okay. Did you review the final version of this
 14 report before it was filed?
 15 A. I did.
 16 Q. Okay. Is this report an accurate statement of
 17 the position of Bentley Pharmaceuticals for the
 18 year 2001?
 19 A. Yes, it is.
 20 Q. Has any position of this document been restated?
 21 MR. MINGOLLA: Why don't you take the
 22 time you need to review the document if you need
 23 to to answer that question.
 24 A. May I have just a moment?

1 Q. Do you recall receiving any other compensation
 2 in 2001?
 3 A. Just the typical base salary, possibly bonus
 4 401(k) contributions, life insurance, and health
 5 insurance benefits. At one point, there were
 6 15,000 shares of stock awarded to me, but I
 7 couldn't tell you what year that was.
 8 Q. Was that reported --
 9 A. It was included in the proxy statement.
 10 Q. I'd like to draw your attention to a page
 11 towards the back of the 10-K. It's marked F-15.
 12 It's in Note 7, titled Related Party Notes. The
 13 note says that the company provided loans to
 14 each of Messrs. Murphy, Price, and Gyurik, who
 15 are executive officers of the company, in the
 16 amount of 250,000, 50,000, and 140,000,
 17 respectively, in March 2000. Do you recall the
 18 circumstances of these loans in 2000?
 19 A. Yes.
 20 Q. Could you tell me a little bit about them?
 21 A. Sure. The company had awarded stock to each of
 22 those three officers.
 23 Q. Including yourself?
 24 A. Including myself, and at the time of the stock

7 (Pages 22 to 25)

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1 award, the shares were restricted so no taxes
 2 were due at that time, but when the restrictions
 3 were lifted, the tax consequences had to be
 4 settled. And with that, having to be in a
 5 position to sell the shares of stock to raise
 6 the cash to pay the taxes, the company made a
 7 loan to each of these three officers, myself
 8 included, to allow us to be able to pay the tax
 9 consequences on those shares of stock. And
 10 those are the shares that I mentioned a few
 11 moments ago about receiving 15,000 shares but I
 12 couldn't recall the year that I received those.
 13 Q. And how were the amounts of the loans
 14 calculated?
 15 A. They were a rough estimate of the tax
 16 consequences due on the number of shares of
 17 stock based on their fair market values.
 18 Q. And who calculated those loans?
 19 A. I'm sure I was probably involved in the process.
 20 Q. How were those loans approved? Were they
 21 approved at the company level or did they have
 22 to go up to the board of directors?
 23 A. I think the board of directors approved those
 24 loans.

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1 Q. Do you recall approximately when they were
 2 approved?
 3 A. I assume it was in early 2000.
 4 Q. And if you look at a sentence below, it says, "In
 5 December 2001, the Compensation Committee of the
 6 Company's Board of Directors agreed to amend the
 7 loan agreements, resulting in the forgiveness of
 8 principal and accrued interest." Can you tell
 9 me something about the circumstances of that
 10 loan forgiveness?
 11 MR. MINGOLLA: Objection as to form.
 12 A. When you say tell you something about it, what
 13 do you mean?
 14 Q. What do you recall about the circumstances of
 15 the board of directors approving those loan
 16 forgivenesses?
 17 A. I think there was a concept to forgive some
 18 portion of the loan in each of X number of
 19 successive years, and I think I recall a
 20 percentage of it being forgiven in 2000 and then
 21 maybe more or less the equivalent amount being
 22 forgiven with the following year, with the idea
 23 that it would be forgiven over X number of
 24 years, perhaps even five years. I don't recall.

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1 Q. Was that part of the arrangement in 2000 when
 2 the loans were made?
 3 A. I don't think so.
 4 Q. Was it understood at the time that those loans
 5 would be forgiven in that manner?
 6 MR. MINGOLLA: Objection.
 7 Q. Did you understand at that time that those loans
 8 would be forgiven in that manner?
 9 A. No one told me that the loans would be forgiven
 10 at some time in the future. I was under the
 11 assumption I would have to repay the loan.
 12 Q. During 2000, do you recall making payments on
 13 that loan?
 14 A. No, I don't recall making any payments on it.
 15 Q. Do you have a copy of that loan agreement?
 16 A. I can find a copy of the loan agreement. I
 17 think it was even filed as an exhibit to the SEC
 18 filings.
 19 Q. Do you know if the amendments to that loan
 20 agreement that are mentioned here in Note 7 were
 21 filed as well?
 22 A. I would have to go look. I don't recall.
 23 Q. In 2002, did your responsibilities change at
 24 all?

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1 A. They did not.
 2 Q. Did your positions change at all?
 3 A. No.
 4 Q. Do you recall approximately what your
 5 compensation was in 2002?
 6 A. I think it was about 200,000.
 7 Q. Did you receive any bonus in 2002?
 8 A. I think I did, but I couldn't tell you how much
 9 it was.
 10 Q. Did you receive any stock or options in 2002?
 11 A. I think the only stock I received were as
 12 contributions to my 401(k) plan, and I did
 13 receive stock options; and I would speculate
 14 that the number was 50,000.
 15 Q. Approximately how much were the 50,000 stock
 16 options worth at the time?
 17 A. Worth in terms of?
 18 Q. Dollars.
 19 A. Well, they were granted at fair market value, so
 20 on the day you received them, there's no
 21 intrinsic value there. They're exercisable at
 22 the price of the stock that day, so it's
 23 nonetheless the stock appreciates in value that
 24 there's any value there.

8 (Pages 26 to 29)

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1 Q. Have you exercised any of the stock options?
 2 MR. MINGOLLA: Which options are we
 3 referring to, the ones he received in 2002 or
 4 any prior ones?
 5 MR. FINE: 2002.
 6 A. I don't think I have, but I would have to go
 7 back and look at a schedule to tell you that for
 8 sure.
 9 Q. Did you exercise any of the options you received
 10 in prior years or have you?
 11 A. I have exercised options that I have received in
 12 prior years.
 13 Q. In 2003, did your position or responsibilities
 14 change?
 15 A. No.
 16 Q. And do you recall approximately how much you
 17 received in salary in 2003?
 18 A. I would guess somewhere between 230 and 250,000.
 19 Q. Did you receive any bonus in 2003?
 20 A. I think I did, but I don't recall the amount.
 21 Q. Did you receive any stock or options in 2003?
 22 A. I received shares of stock in my 401(k) plan,
 23 the maximum contribution, and I think I got
 24 stock options that year, but I couldn't tell you

1 resigned from the board in 2004 in advance of
 2 being listed on the New York Stock Exchange.
 3 Q. And in advance of 2004, how many independent
 4 directors were on the board?
 5 A. I would say there had been four or five outside
 6 independent directors and four inside.
 7 Q. Did any of your positions or responsibilities
 8 other than leaving the board of directors change
 9 after 2003?
 10 A. No.
 11 Q. Okay. Bentley Pharmaceuticals owns a
 12 corporation called Laboratorios Belmac; is that
 13 correct?
 14 A. It owns the shares of a company called
 15 Laboratorios Belmac S.A.
 16 Q. Okay. Do you hold any position with
 17 Laboratorios Belmac?
 18 A. I don't hold a position other than a membership
 19 on the board of directors.
 20 Q. How long have you held a position on the board
 21 of directors of Laboratorios Belmac?
 22 A. I don't recall the date that I first became a
 23 member of the board, but it probably dates back
 24 into the 1990s.

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Page 33

1 how many.
 2 Q. Did you also have any loan forgiveness in 2003?
 3 A. I think the balance of the loan was forgiven in
 4 2003.
 5 Q. And was a portion of that loan also forgiven in
 6 2002?
 7 A. It was.
 8 Q. You mentioned a few minutes ago that you're no
 9 longer on the board of directors of Bentley
 10 Pharmaceuticals.
 11 A. That's right.
 12 Q. When did that change occur?
 13 A. I think that happened in 2004.
 14 Q. How did that change occur?
 15 A. I voluntarily resigned from the board in 2004 in
 16 preparation for us being listed on the New York
 17 Stock Exchange. We had been previously listed
 18 on the American Stock Exchange, and there were a
 19 lot of corporate governance reforms taking place
 20 at that time; and we wanted to follow what was
 21 considered good form as far as corporate
 22 governance. So we wanted to minimize the number
 23 of insiders that were included on the board and
 24 have outsiders on the board. So I voluntarily

1 Q. Do you recall whether it was the early 1990s or
 2 the later 1990s?
 3 A. If I had to guess, I would say mid-1990s, but I
 4 don't have the specific date.
 5 Q. I'd like to show you another document.
 6 (Document Bates Numbers BEL
 7 006982-006987 was marked Exhibit Number
 8 2 for identification.)
 9 Q. If you turn to Page 2 of this exhibit, you'll
 10 see a table marked Consejo de Administracion?
 11 A. I see that.
 12 Q. Do you know what consejo de administracion
 13 means?
 14 A. No, I don't.
 15 Q. Do you have a rough understanding what it means?
 16 MR. MINGOLLA: Objection.
 17 A. I know "de" is "of," and I know "administracion"
 18 is probably "administration," but I'm not sure
 19 what "consejo" is.
 20 Q. Do you know if that means board of directors?
 21 A. I don't know.
 22 Q. Okay. If you look to 1990 -- the column marked
 23 1993 -- actually, it's the second column marked
 24 1993.

9 (Pages 30 to 33)

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1 A. Okay.
 2 Q. A date under that -- of the first row, the row
 3 marked Belmac.
 4 A. Okay.
 5 Q. Does that refer to Laboratorios Belmac?
 6 A. I would assume this means Laboratorios Belmac
 7 S.A.
 8 Q. And not Belmac Corporation?
 9 A. Not Belmac Corporation, no.
 10 Q. And the reason you would assume that?
 11 A. Primarily because the language is in Spanish and
 12 there are two divisions here, one for Belmac and
 13 one for Davur.
 14 Q. And if you look down on the second column for
 15 1993, that's marked 16-12-1993. And I'm
 16 assuming that's a European date, so it would be
 17 the 16th of December, 1993. Is that what you
 18 would understand?
 19 A. That's my assumption.
 20 Q. You'll notice that you're listed under vocales,
 21 Michael D. Price. That's you, correct?
 22 A. That's right.
 23 Q. Do you know what a vocales is?
 24 A. I do not.

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1 about right?
 2 A. Yes, it looks to be --
 3 Q. It looks to be cut off.
 4 A. -- it's cut off from the prior page.
 5 Q. And you're also listed in each of the columns
 6 there that has writing in it, the 1999 column,
 7 2000, '01, '02, '02 again, '03, '04, and '05.
 8 Is that accurate?
 9 A. That is correct.
 10 Q. And you're listed as a consejero in the 1999,
 11 2000, 2001, and the first column of 2002; is
 12 that correct?
 13 A. That's correct.
 14 Q. And then, you're listed as a consejero delegado
 15 in the columns marked -- the second column for
 16 2002, the column for 2003, '04, and '05; is that
 17 correct?
 18 A. That's correct.
 19 Q. Do you recall what a consejero delegado is?
 20 A. I don't know.
 21 Q. Do you recall in 2002 being made a consejero
 22 delegado?
 23 A. I don't recall that, no.
 24 Q. Do you recall any discussions about being made a

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1 Q. You're also listed again in that column; is that
 2 correct?
 3 A. I am.
 4 Q. And you're listed there under consejeros; is
 5 that correct?
 6 A. Yes.
 7 Q. Do you know what a consejero is?
 8 A. No, I don't.
 9 Q. Does this document help reflect -- refresh your
 10 recollection as to when you might have been
 11 appointed to the board of directors of
 12 Laboratorios Belmac?
 13 A. Again, I would have assumed that it was in the
 14 mid-1990s, and I'm not really sure what those
 15 terms mean, so...
 16 Q. And if you look into the columns for 1994,
 17 you're again listed as a vocales on all of those
 18 columns; is that correct?
 19 A. That's right.
 20 Q. And you're also listed as a consejero on all of
 21 those columns; is that correct?
 22 A. That's correct.
 23 Q. And if you turn to the next page and you look at
 24 the top, it says Consejo de Adminis. Is that

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1 consejero delegado?
 2 A. No.
 3 Q. Do you know how you were made a consejero
 4 delegado?
 5 A. I don't recall.
 6 Q. And if you look down to the column marked Davur,
 7 that's Laboratorios Davur; is that correct?
 8 A. That's my assumption, Laboratorios Davur S.L.
 9 Q. Is that another subsidiary of Bentley
 10 Pharmaceuticals?
 11 A. That's a wholly owned subsidiary of Laboratorios
 12 Belmac S.A.
 13 Q. And there's nothing on the columns labeled 6983
 14 other than Davur, other than the titles
 15 presidente, consejeros delegado, et cetera?
 16 A. That's correct.
 17 Q. And if you turn to the next page, beginning with
 18 1998, there are individuals in those columns,
 19 correct?
 20 A. Yes, there are.
 21 Q. And are you listed in any of those columns?
 22 A. I'm listed beginning in 1999, as of
 23 November 29th, 1999.
 24 Q. As a vocales?

10 (Pages 34 to 37)

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1 A. As a vocales.
 2 Q. And nothing in 2000 or 2001?
 3 A. There's nothing in those columns for 2000 and
 4 2001.
 5 Q. Was Laboratorios Davur founded in 1998?
 6 A. That sounds about right. It was founded in the
 7 late 1990s.
 8 Q. So if there's nothing in a column before 1998,
 9 that would indicate that no individual held that
 10 position?
 11 A. I think the company was not even in existence
 12 prior to that.
 13 Q. And do you know why there's nothing listed in
 14 the columns for 2000 and 2001?
 15 MR. MINGOLLA: Objection, foundation.
 16 Q. Is there anything listed in the columns 2000 and
 17 2001?
 18 A. There's nothing in 2000 or 2001 for Davur.
 19 Q. Do you know why there's nothing listed in the
 20 columns for 2000 or 2001?
 21 A. I don't know.
 22 Q. And in the columns for 2002, both of those, in
 23 the first one, you're listed -- in both of
 24 those, you're listed as a vocale?

1 Q. Do you receive compensation from Laboratorios
 2 Davur?
 3 A. I do not.
 4 Q. Do you receive compensation from any other
 5 Spanish company owned either in whole or in part
 6 directly or indirectly by Bentley
 7 Pharmaceuticals?
 8 A. I do not.
 9 Q. And that includes salary?
 10 A. That includes any form of compensation; salary,
 11 bonus, stock options, benefits. It includes
 12 anything.
 13 Q. Do you recall approximately how many times
 14 you've traveled to Spain --
 15 A. I would --
 16 Q. -- from -- let's see -- from 1993 to the present
 17 in each year?
 18 MR. MINGOLLA: For any purpose?
 19 MR. FINE: For any purpose.
 20 A. I would say the average was three times per year
 21 on average, but there were probably times that I
 22 went as many as five times a year and as few as
 23 one.
 24 Q. And for what purposes did you travel to Spain in

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1 A. Right.
 2 Q. And, in fact, you're listed as a vocale in both
 3 those columns 2002, 2003, 2004, and 2005, right?
 4 A. That's right.
 5 Q. And beginning in 2002, you're also listed as a
 6 consejero delegado?
 7 A. Beginning in 2002.
 8 Q. And that's about the same time that you're
 9 listed -- actually is at the same time that
 10 you're listed as a consejero delegado for
 11 Belmac; is that correct?
 12 A. Beginning in 2002, that's correct.
 13 Q. Do you know if you are at present either a
 14 consejero or a consejero delegado of Belmac or
 15 Davur?
 16 MR. MINGOLLA: I will object.
 17 A. I don't understand what those terms mean. My
 18 understanding is I'm a member of the board of
 19 directors, but I don't know what these terms
 20 are.
 21 Q. In your capacity as a member of the board of
 22 directors or any other capacity, do you receive
 23 compensation from Laboratorios Belmac?
 24 A. I do not.

1 that period?
 2 A. I would say primarily for information gathering,
 3 to make sure that our filings with the
 4 Securities and Exchange Commission were complete
 5 and accurate and just to make sure I understood
 6 the business model over there.
 7 Q. And how -- who did you meet with when you went
 8 over for information gathering?
 9 A. Primarily the finance department and the general
 10 manager.
 11 Q. And who was in the finance department
 12 approximately -- let me rephrase that. That's
 13 pretty broad. How many people were in the
 14 finance department --
 15 MR. MINGOLLA: Objection. What time?
 16 Q. -- of Laboratorios Belmac?
 17 A. You know, in the beginning, back in the early
 18 1990s, I would say there were probably four to
 19 six people in the finance department. All the
 20 way up through the present day, there are
 21 probably ten people in the finance department.
 22 Q. And does Laboratorios Davur have a separate
 23 department?
 24 A. Laboratorios Davur has its own set of employees.

11 (Pages 38 to 41)

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1 However, I think that -- I think there may be a
2 group of employees at Belmac that actually
3 performed the accounting functions for Davur and
4 Rimafar.

5 Q. You mentioned the one purpose for which you go
6 over to Spain is to gather information. Is that
7 for Bentley?

8 A. That's for me to be able to file consolidated
9 financial statements and put proper disclosures
10 in those filings with the Securities and
11 Exchange Commission.

12 Q. Which are filed for Bentley, is that correct?

13 A. Which are Bentley filings.

14 Q. And those people in the finance department at
15 Laboratorios Belmac, you testified that you meet
16 with them. How much contact do you have with
17 them when you're not visiting Spain?

18 MR. MINGOLLA: Objection, vague as to
19 time frame.

20 Q. Let's say 1993 to 1999.

21 A. In 1993, I had minimal contact with them. You
22 know, we may speak on the phone occasionally if
23 I needed information or had questions, but as we
24 progressed through the years, '94, '95, '96, on

1 staff may have been responsible for
2 communicating, but once I became responsible for
3 the function, I would say it was me and Elaine
4 Melia, whose name I mentioned earlier, Karen
5 Garda, whose name I mentioned earlier.

6 Q. And these -- you would have a weekly approximate
7 phone conversation with folks in the finance
8 department at Laboratorios Belmac; is that
9 right?

10 MR. MINGOLLA: Objection.

11 A. I don't know that it was weekly. It was
12 periodic. It was whenever it was necessary.

13 Q. Approximately how many times per month? I'm
14 trying to get a sense of, you know, how the
15 finance function works, so anything you could
16 tell me would be helpful.

17 A. Well, they provided monthly financial
18 statements, so we were trying to consolidate the
19 financial statements and understand any
20 relationships that didn't appear as expected
21 through that process. We would then ask
22 questions or try to get clarification. So it
23 was something that probably happened in relation
24 to that monthly financial statement processing

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1 into the '90s, I would say the contact became
2 more frequent.

3 Q. Approximately how frequent?

4 A. I don't know that we spoke every week, but
5 perhaps every two or three weeks.

6 Q. Did you send e-mail back and forth?

7 A. Not in the early 1990s. I think we didn't start
8 using e-mail as a company until the late 1990s,
9 and initially, it was not very frequent.

10 Q. Did you send faxes back and forth?

11 A. I would say faxes were much more common back
12 then.

13 Q. And was there anyone else in the finance
14 department at Bentley who had contact with
15 people in the finance department at Laboratorios
16 Belmac?

17 MR. MINGOLLA: Objection, vague as to
18 time frame.

19 Q. In the time frame we're talking about, '93 to
20 '99.

21 A. In 1993 -- in early 1993, we still had a
22 controller at the company called David West, who
23 was responsible for the finances and accounting
24 of the company. And I'm not sure who on his

1 function. So it's possible that during that
2 week that we were doing that, there may be
3 several phone calls or faxes during that week,
4 but maybe not so many the other three weeks of
5 the month, as an example.

6 Q. And after 1999 -- say, from 1999 to 2002, what
7 was the nature and extent of your contacts with
8 the finance people at Laboratorios Belmac?

9 A. Again, I think it was a similar process,
10 although I think that the methodology had
11 probably changed by then. Perhaps they were
12 using e-mail. Perhaps they were sending their
13 files over electronically as opposed to by fax
14 or by whatever other means, but still primarily
15 the contact was of a financial nature, to try to
16 understand the financial statements, what they
17 meant, what the trends were, et cetera.

18 Q. And who was the contact with at Laboratorios
19 Belmac?

20 A. It was different at different times, but in the
21 early '90s, it was with a gentleman by the name
22 of Federico de Salas.

23 Q. In the mid-'90s?

24 A. From the mid-'90s into the late '90s, maybe even

12 (Pages 42 to 45)

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1 in the early 2000s, it was Jose Maria Esteve.
 2 Q. And after Mr. Esteve?
 3 A. After that, Ester Sanchez.
 4 Q. Anyone else?
 5 A. Most recently, Emilio Barta Perez, over the last
 6 several months, last year.
 7 Q. And did you have any contacts with anyone else
 8 at Laboratorios Belmac about Laboratorios
 9 Belmac's finances?
 10 A. A lady by the name of Paloma Rodriguez.
 11 Q. When was that?
 12 A. I would say that's over the past six years, six
 13 or seven years.
 14 Q. And what's her position?
 15 A. She's now controller.
 16 Q. Controller --
 17 A. Of Belmac.
 18 Q. Does Laboratorios -- does Bentley
 19 Pharmaceuticals have a controller now?
 20 A. We do.
 21 Q. And who's that?
 22 A. That's Bob Hebert, H E B E R T, and he's been
 23 with the company for about three years now.
 24 Q. Three years. Did you have responsibility for

1 Mr. De Salas, Mr. Esteve, Ester Sanchez, Emilio
 2 Perez, and Paloma Rodriguez, are there any other
 3 individuals with whom you've had contact at
 4 Laboratorios Belmac about Belmac's finances?
 5 A. I guess you could loosely construe that the
 6 conversations were about finances when I would
 7 speak with the general managers of the company.
 8 Q. And who were they?
 9 A. Back in the early 1990s, it was Angel Perez de
 10 Ayala. After him came Clemente Gonzalez, and
 11 after him, Adolfo Herrera.
 12 Q. And why do you say loosely construe?
 13 A. If I didn't get adequate answers or couldn't
 14 understand the explanations given by somebody in
 15 the finance department, I may have a follow-up
 16 conversation just to make sure I had a complete
 17 understanding, to make sure our filings with the
 18 Securities and Exchange Commission were
 19 accurate.
 20 Q. And do you recall any specific instances in
 21 which you had those conversations with the
 22 general managers?
 23 A. Not specifically, no.
 24 Q. For the earlier period, do you recall any of the

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1 control from '93 to, say, 2003 when Mr. Hebert
 2 came on board?
 3 MR. MINGOLLA: Objection, vague.
 4 A. Did I have responsibilities for?
 5 Q. The responsibilities for the control function at
 6 Laboratorios -- sorry, at Bentley
 7 Pharmaceuticals.
 8 A. As chief financial officer, I was ultimately
 9 responsible for the financials of the company.
 10 I was the principal financial officer of the
 11 company, but I did have people that reported to
 12 me that essentially performed the same function
 13 that Bob Hebert now performs as controller, but
 14 the title was not controller, and those
 15 people --
 16 Q. What was that?
 17 A. -- were people I already mentioned, including
 18 Elaine Melia and Karen Garda.
 19 Q. Other than -- well, let me give you another
 20 document.
 21 (Bentley Pharmaceuticals, Inc. List of
 22 Subsidiaries was marked Exhibit Number 3
 23 for identification.)
 24 Q. And to backtrack for just a second, other than

1 specific conversations from, say, '93 to '99?
 2 A. Nothing specific, no.
 3 Q. Anything from '99 to 2002?
 4 A. No.
 5 Q. Anything from 2002 to the present?
 6 A. With respect to specific issues or?
 7 Q. Any specific conversations. You said you had or
 8 you testified you could loosely construe certain
 9 conversations with the general managers as
 10 relating to the finance function.
 11 MR. MINGOLLA: I'll object only to the
 12 portion of the question "to the present." I
 13 think that's beyond -- well beyond Phase 1.
 14 A. Just in general -- no specifics, but just in
 15 general where the general manager may call up
 16 and say, "We reported X number of millions of
 17 revenues in euros and the number is X," but
 18 nothing beyond that.
 19 Q. Anything from 2002 to 2004?
 20 A. Not specifically, no.
 21 Q. I'd like you to take a look at this exhibit,
 22 which is, I think, Exhibit 3. And I will
 23 represent to you that this has been produced to
 24 us and is called Bentley Pharmaceuticals,

13 (Pages 46 to 49)

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1 Incorporated List of Subsidiaries.
 2 A. Yes.
 3 Q. Is Pharma de Espana a subsidiary of Bentley
 4 Pharmaceuticals?
 5 A. Pharma de Espana is a wholly owned subsidiary of
 6 Bentley Pharmaceuticals, Inc.
 7 Q. How long has it been a wholly owned subsidiary
 8 of Bentley Pharmaceuticals, Inc.?
 9 A. Since the late 1990s, maybe around 1997 or 1998.
 10 Q. And is this incorporated in the United States,
 11 Pharma de Espana?
 12 A. It is. It's a Delaware company.
 13 Q. Delaware company?
 14 A. Uh-huh.
 15 Q. And why was it incorporated?
 16 A. It was incorporated to be the shareholder of
 17 Laboratorios Belmac.
 18 Q. I'm sorry. I don't understand that. What do
 19 you mean by shareholder of Laboratorios Belmac?
 20 A. The shares of Laboratorios Belmac are owned by
 21 Pharma de Espana, which are then owned by
 22 Bentley Pharmaceuticals, Inc.
 23 Q. And is that a wholly owned subsidiary of Bentley
 24 Pharmaceuticals, Inc.?

1 you could look back in Exhibit Number 1 that we
 2 talked about, and in Note 2, it will give you a
 3 depiction of who owns who. And that's on Page
 4 F-8.
 5 Q. Why was Bentley Healthcare Corporation founded?
 6 A. I think that was a U.S. corporation. It's a
 7 Florida corporation, and I think it was
 8 established back in the early 1990s to sell
 9 disposable linens.
 10 Q. And when was -- early 1990s, you testified?
 11 A. I'm guessing in 1992, 1993 time frame.
 12 Q. And Belmac Health Corporation, when was that
 13 incorporated?
 14 A. Probably in a similar time frame, but I can't
 15 recall any of the specifics of the operations of
 16 that company.
 17 Q. Is that a United States company?
 18 A. It is.
 19 Q. And Belmac Hygiene, Incorporated, when was that
 20 founded?
 21 A. Belmac Hygiene was probably founded in the early
 22 1990s.
 23 Q. And is that a U.S. entity?
 24 A. I think that's also a Florida company.

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1 A. It was a wholly owned subsidiary of Pharma de
 2 Espana.
 3 Q. Going back to Pharma de Espana, does Pharma de
 4 Espana own any other things than shares in
 5 Laboratorios Belmac?
 6 A. It also -- I would have to verify this. I think
 7 it now owns a company called Bentley API, Inc.
 8 or Bentley API S.L.
 9 Q. Does it own anything else?
 10 A. No.
 11 Q. And Laboratorios Davur, you've testified, is a
 12 wholly owned subsidiary of Laboratorios Belmac;
 13 is that correct?
 14 A. That's correct.
 15 Q. And Laboratorios Belmac is a wholly owned
 16 subsidiary of Pharma de Espana, which is a
 17 wholly owned subsidiary of Bentley
 18 Pharmaceuticals. I'm trying to develop a sense
 19 of the corporate structure here.
 20 A. That's correct.
 21 Q. Bentley Healthcare Corporation, what is that?
 22 A. Bentley Healthcare Corporation is owned by
 23 Bentley Pharmaceuticals, I think. If you want
 24 to get a good sense for the corporate structure,

1 Q. And Belmac Holdings, Incorporated, when was that
 2 incorporated?
 3 A. I think Belmac Holdings was incorporated before
 4 I came to work at the company, so I don't know
 5 the date.
 6 Q. And do you know what the purpose of Belmac
 7 Holdings is or was?
 8 A. I don't know.
 9 Q. Do you know --
 10 A. It's not an active subsidiary.
 11 Q. And Belmac A.I., Incorporated, when was that
 12 incorporated?
 13 A. I think that was incorporated before I came to
 14 work here as well.
 15 Q. Is that an active subsidiary?
 16 A. It is not active. As a matter of fact, the only
 17 active companies on that list -- and by the way,
 18 this list was put together because it was
 19 Exhibit 21.2 to the annual report Form 10-K
 20 filed with the Securities and Exchange
 21 Commission that requires a list of all the
 22 subsidiaries. So the only active companies on
 23 this list are Pharma de Espana, which is a
 24 holding company; Laboratorios Belmac,

14 (Pages 50 to 53)

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1 Laboratorios Davur, and that's it. The others
2 are inactive.
3 Q. Okay. You've testified that you're the CFO of
4 Bentley Pharmaceuticals, Inc. and that you have
5 responsibility for drafting, reviewing, and
6 filing Bentley's public disclosures and SEC
7 filings; is that correct?
8 A. That's correct.
9 Q. Okay. I'd like you to explain to me a little
10 bit about how SEC filings have been drafted
11 since 1999. Could you run me through the
12 process for a 10-K?
13 MR. MINGOLLA: I assume you're
14 referring to Bentley filings?
15 MR. FINE: Yes. Did I say Bentley
16 Pharmaceuticals?
17 MR. MINGOLLA: Well, you didn't
18 mention any company specifically. I just wanted
19 to make sure you're asking for his understanding
20 about how Bentley prepares its SEC filings.
21 Q. Do any of Bentley's subsidiaries provide any SEC
22 filings?
23 A. Only Bentley Pharmaceuticals, Inc. The process,
24 for example, for an annual report on 10-K is to,

1 Q. And generally, that's Laboratorios Belmac
2 because you've testified that Laboratorios
3 Davur's finances are handled by Laboratorios
4 Belmac in terms of financial reporting?
5 A. That's pretty much right. Laboratorios Belmac
6 has to provide its own financial statements on a
7 stand-alone basis on a statutory -- Spanish
8 statutory accounting basis to the Spanish
9 government. Davur has to provide its own.
10 Rimafar has to provide its own, but then each of
11 those three separate ones are rolled into
12 consolidated Belmac, which are then forwarded to
13 us.
14 Q. Who audits those in Spain?
15 A. That's Deloitte & Touche.
16 Q. And are those also audited in the United States?
17 A. They are -- I'm not going to say that they
18 duplicate the procedures that are performed in
19 Spain because the purpose of the financials in
20 Spain is really different than the purpose here
21 in the U.S. In Spain, it's primarily a tax
22 process over there, where they're trying to make
23 sure the financial statements are accurate for
24 tax-paying purposes, so they're completed in

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1 first of all, complete the financial statements
2 that would be included as an exhibit to those
3 and then use that as the basis for drafting the
4 management's discussion and analysis section.
5 Q. When does that start, the drafting of the
6 financials?
7 A. I would say it probably starts right around year
8 end.
9 Q. And do you send out a request for information at
10 the year end?
11 A. We have a reporting package that is prepared by
12 the subsidiaries and audited by the accountants,
13 and then the audited financial results are
14 forwarded to Bentley Pharmaceuticals, Inc.,
15 where they're consolidated along with Bentley's
16 financial statements and consolidated financials
17 are prepared. And then it's those financials
18 that provide the basis for the annual report on
19 Form 10-K.
20 Q. And if you have questions about the financial
21 information being reported by the subs, you
22 would get in touch with the finance department
23 of the sub in question?
24 A. I or somebody working for me would do that, yes.

1 conformance with Spanish statutory requirements.
2 The accounting principles that are used in Spain
3 for the most part are the same as in the U.S.,
4 but there are certain differences, and those
5 differences have to be taken into account in
6 order to be able to transform those Spanish
7 statutory accounts into U.S. GAAP, or generally
8 accepted accounting principles, financial
9 statements format and then consolidated along
10 with Bentley's.
11 Q. Who performs that work? Who transforms the
12 Spanish statutory accounts --
13 A. A combined effort of both our Spanish employees
14 at Laboratorios Belmac before we get the
15 financials, and then there's some additional
16 adjustments that need to be made in the U.S.;
17 and Bentley performs those adjustments, but it's
18 relatively easy to take those audited financial
19 statutory statements and make those adjustments,
20 and then you don't have to duplicate all the
21 initial work that was performed on the Spanish
22 statutory financials, but then Deloitte can take
23 that as a beginning point and add it the
24 adjustments that get made.

15 (Pages 54 to 57)

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1 Q. How long does that take? So this starts at the
 2 year end; by February, you guys have --
 3 A. I would say typically the process can begin by
 4 late January, the audit process, and typically,
 5 before the end of February, we have audited
 6 financial Spanish statutory accounts.
 7 Q. And when do you have U.S. GAAP?
 8 A. The financials are typically finished up right
 9 around the end of February on a consolidated
 10 basis. The statutory filings are now different,
 11 but back in the time frame that we're speaking
 12 of, the requirement was that the annual report
 13 of Form 10-K had to be filed within 90 days of
 14 year end.
 15 Q. And that's fiscal year end or --
 16 A. That's right, which is a calendar year for us.
 17 Q. Okay. And then those financial statements, you
 18 testified, are the basis for management's
 19 discussion analysis?
 20 A. Right, and then in addition to that, there are
 21 many other requirements that have to be included
 22 on this annual report on Form 10-K. For
 23 example, you have to describe the properties
 24 owned by the company, you have to describe the

1 1998?
 2 A. That's right, it's grown, primarily as a result
 3 of the whole Sarbanes-Oxley requirements as far
 4 as controls and segregation of duties, et
 5 cetera.
 6 Q. And you testified earlier that the U.S. GAAP-
 7 compliant financials are the basis for the MD
 8 and A. Could you tell me how the MD and A is
 9 drafted?
 10 A. Sure. There are specific requirements as far as
 11 management's discussion and analysis, and those
 12 are spelled out by the Securities and Exchange
 13 Commission, but you have to try to give the
 14 reader a view of what the company's business is
 15 like from the views and from the viewpoint of
 16 management. So you're essentially trying to
 17 explain what drove the increases in revenues,
 18 what happened to margins, what's happening to
 19 operating expenses in relation to the growth in
 20 revenues, what's happening to the financial
 21 position of the company, whether your liquidity
 22 is improving or whether you have liquidity
 23 issues that you may need to confront in the
 24 future, et cetera.

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1 business of the company, you have to list the
 2 officers and directors, their backgrounds, et
 3 cetera.
 4 Q. Who does that background work?
 5 MR. MINGOLLA: Objection. Are you
 6 referring to all the background work he just
 7 referenced or any specific aspect?
 8 Q. All of it with the exception of MD and A.
 9 A. It's a concerted effort by me and the other
 10 people in the finance department.
 11 Q. And who are they?
 12 A. Today or --
 13 Q. Yes, today.
 14 A. It would be -- in addition to me, it would be
 15 Bob Hebert, the controller; it would be Sandy
 16 Cassetta, the accounting manager; it would be
 17 Art Ludwig, L U D W I G, financial analyst;
 18 maybe a little bit by Laurel Fauteux,
 19 F A U T E U X.
 20 Q. In 1999?
 21 A. That would be Elaine Melia. It was really just
 22 Elaine Melia and me at that point.
 23 Q. So it sounds like the finance function at
 24 Bentley has expanded pretty dramatically since

1 Q. And in 1999, who wrote the first draft of the MD
 2 and A?
 3 A. I'm going to speculate that I did. I couldn't
 4 tell you for sure, but I think I did.
 5 Q. And who reviewed that draft?
 6 MR. MINGOLLA: Objection, foundation.
 7 A. I can't specifically tell you who reviewed that
 8 draft, but I can --
 9 Q. Did anyone review that draft before it was filed
 10 with the SEC?
 11 A. I can tell you after I created the draft that it
 12 was distributed to the officers of the company
 13 and to the directors of the company, and
 14 everybody had an opportunity to read it and
 15 provide input.
 16 Q. Okay. And about how long did that drafting
 17 process take?
 18 A. You know, it's a process that begins early in
 19 the year, and it has to be -- at that time, had
 20 to be filed within 90 days of year end, so it's
 21 something that primarily took place between days
 22 30 and 90.
 23 Q. Did any attorneys review that draft?
 24 MR. MINGOLLA: Objection, foundation.

16 (Pages 58 to 61)

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1 Assumes one draft was in existence.
 2 Q. Did any attorneys review any draft of the MD and
 3 A?
 4 A. In what time frame are we talking about?
 5 Q. In 1999.
 6 A. In 1999, our outside legal counsel was Parker
 7 Chapin, and they were integrally involved in the
 8 processes.
 9 Q. So were drafts exchanged back and forth with
 10 Parker Chapin?
 11 A. Yes.
 12 MR. FINE: Okay. I'd actually like to
 13 take a quick break before we get some documents,
 14 if that's okay with you.
 15 THE WITNESS: Sure.
 16 (Recess taken from 10:26 a.m. to
 17 10:42 a.m.)
 18 Q. I just wanted to come back to something pretty
 19 quickly. You said in, I think, 1996 that you
 20 received 400,000 stock options?
 21 A. That's right.
 22 Q. What was that for? Is that a lot of stock
 23 options?
 24 A. It was a lot of stock options, and it was -- the

1 own because I did not sell all the shares. I
 2 sold very few of the shares actually.
 3 Q. So you exercised the stock option for about
 4 \$3 million of Bentley stock and liquidated about
 5 400,000 of that?
 6 A. Well, I was taxed on the intrinsic value, which
 7 was roughly \$3 million, between what I paid and
 8 what the stock was worth at the time. So I had
 9 to pay taxes on the 3 million, but I sold only
 10 enough shares to be able to raise enough capital
 11 to be able to purchase the shares and still
 12 own -- today, I still own more than 200,000 of
 13 the shares.
 14 Q. How many shares of Bentley Pharmaceuticals do
 15 you now own?
 16 A. 200,300.
 17 Q. No fractional?
 18 A. No fractional.
 19 Q. And you know it to the penny?
 20 A. Yes.
 21 Q. Was this in part why the company extended a loan
 22 in 2000 to offset --
 23 A. No, that wasn't really the issue.
 24 Q. -- another grant of stock? And what were the

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1 company was having financial difficulty at the
 2 time, and in order to entice the management
 3 group to stay committed to the company, stay
 4 local to the company and continue employment in
 5 the company even though its future was
 6 questionable at the time, the board of directors
 7 proposed to the shareholders and the
 8 shareholders approved at an annual meeting of
 9 the shareholders that the existing management of
 10 the company, including Jim Murphy, Bob Stote and
 11 myself, received 600,000, 500,000, and 400,000
 12 stock options respectively.
 13 Q. And have you exercised any of the stock options?
 14 A. I have exercised all 400,000 of those.
 15 Q. And how much did you realize from that?
 16 A. When you say realize, how much cash did I bring
 17 home?
 18 Q. How much income before taxes did that produce or
 19 how much cash did you bring home?
 20 A. Well, those are two very different answers. It
 21 produced income of in round numbers probably
 22 \$3 million. How much cash did I bring home,
 23 probably \$400,000 because the rest of it is
 24 still residing in shares of stock that I still

1 financial difficulties that the company was in
 2 at that time?
 3 A. If you go back to 1993, 1994, and 1995 and even
 4 into 1996, the company didn't have sufficient
 5 working capital. The company was losing money.
 6 It was depleting its existing cash reserves. It
 7 was involved in a lot of litigation. It was a
 8 struggling company, and the capital markets were
 9 pretty tough at that point; and it was not easy
 10 to go out and raise additional capital.
 11 Q. Were you involved in efforts to raise additional
 12 capital?
 13 A. I was.
 14 Q. And who else was involved in those efforts?
 15 A. Toward the end, it was Jim Murphy who was
 16 involved, but before he came back to the
 17 company, it included Michael Harshbarger --
 18 yeah, I would say primarily Michael Harshbarger
 19 before then.
 20 Q. And what was the litigation that the company was
 21 involved in?
 22 A. The company was primarily involved in litigation
 23 with respect to wrongful termination lawsuits
 24 from prior officers and employees.

17 (Pages 62 to 65)